

## **REMARKS**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

Claims 1-14 were pending in this application with claim 7 withdrawn from consideration. By the present response, claims 3, 8, 9, 11, 12 and 14 have been amended, claims 7 and 10 canceled, and claims 15-37 have been added. Thus, upon entry of the present response, claims 1-6, 8-9 and 11-37 remain pending and await further consideration on the merits.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims, the drawing figures and the specification, page 9, lines 12-14; page 10, lines 11-13 and 22-23; page 11, lines 8-10; page 13, lines 1-5; and page 14, line 10 to page 15, line 6.

## ***DRAWINGS***

Applicant appreciates the Examiner's comments on the drawings. Formal drawings will be prepared for submission in this application, but in the absence of a formal objection, such drawings will be submitted at a later date in the prosecution.

## ***CLAIM OBJECTIONS***

Claim 10 has been canceled and claims 3 and 14 amended as suggested by the Examiner at paragraphs 1 and 2 of the Official Action. Withdrawal of the objections is respectfully requested.

***CLAIM REJECTIONS UNDER 35 U.S.C. §112***

Claims 8-14 are rejected under 35 U.S.C. §112 for the reasons outlined at paragraphs 5-10 of the Official Action. Claims 8, 11 and 12 have been amended to address the concerns of the Examiner. Withdrawal of the rejection is respectfully requested.

***CLAIM REJECTIONS UNDER 35 U.S.C. §102***

Claims 1 and 3 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,094,170 to Raynaud et al. (hereafter "*Raynaud*") on the grounds set forth in paragraphs 13-14 of the Official Action. For at least the reasons noted below, this rejection should be withdrawn.

To anticipate a claim, the reference must teach every element of the claim. See MPEP § 2131. For example, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). Here, the rejection is traversed because the cited reference does not teach every element of the claim.

For example, *Raynaud* discloses (in reference to FIG. 5D) holding and ejection means constituted by support panniers fixed to the lower pallet, setting pads or blocks, holding straps and pyrotechnically controlled ejection bellows (col. 2, lines 1-5). In one embodiment, the armaments are ejected individually and simultaneous from the support pannier (See Fig. 5A). In other embodiments, the support panniers house armaments 86 held in a group 84 by an undisclosed device (pictured in middle portion of FIG. 5D). As disclosed by *Raynaud*, "groups 84 are firstly ejected from the

container, each by its own ejection system. Once each group 84 has been ejected from the container 4 [by the ejection bags], the armaments 86 are separated by their own ejection system 88 (col. 5, lines 40-42). Further, "armaments or armament groups contained in the same pannier can be ejected at different speeds or velocities by adaptation of the pyrotechnic inflating charge of the ejection bags" (col. 5, lines 43-46). In other words, *Raynaud* discloses first ejecting a bound group of armaments, which can be the same or simultaneously ejected, followed by the simultaneously ejecting of all the armaments in the group.

In contrast to the disclosure in *Raynaud*, present claims 1 and 3 recite that a projectile dispenser has, *inter alia*, means for releasing said elongated projectiles from said at least one spool in specific sequence following separation from said dispenser. *Raynaud* simply does not disclose a device with the above noted features.

From the above, it is respectfully asserted that an anticipatory rejection based on the disclosure in *Raynaud* is improper because the document does not disclose the projectile dispenser as claimed. Withdrawal of the rejection is respectfully requested.

***CLAIM REJECTIONS UNDER 35 U.S.C. §103***

Claims 2 and 4-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,094,170 to Raynaud et al. (hereafter "*Raynaud*") on the grounds set forth in paragraphs 17-22 of the Official Action. For at least the reasons noted below, this rejection should be withdrawn.

Regarding claims 7 and 10, these claims have been canceled without prejudice or disclaimer and reserving the right to file one or more continuation/divisional applications.

With respect to the rejections of claims 4-6, Applicant has discussed herein the rejection of independent claim 3, from which these claims depend. It is respectfully submitted that these claims are distinguishable over the disclosure in *Raynaud* for at least the same reasons as previously noted. For at least this reason, the rejection should be withdrawn.

Further, to the extent that claim 5 is within the scope of the reasons for allowance put forth by the Examiner at paragraph 25, claim 5 is further allowable and the rejection should be withdrawn.

Regarding claim 2, the Official Action asserts that it would be mere design choice to rearrange the longitudinal axis as proposed. However, to do so in the missile of *Raynaud* would result in the armaments of *Raynaud* releasing into the motor means 3. There is no proposed solution to this problem with the proposed modification. In contrast, in exemplary embodiments of the present application, if a motor is present at an aft end, the motor section is separated prior to longitudinal ejection of the spools.

However, to establish obviousness, there must be a suggestion or motivation to modify the reference or to combine the teachings, there must be a reasonable expectation of success for the proposed modification or combination and the references must teach or suggest all of the claim limitations. See M.P.E.P. §§2143-2143.03. Here, the rejection outlined in the Official Action does not meet these criteria. Rather, the proposed modification, even if there is suggestion or motivation

for the modification, is not likely to succeed because of the intervening motor means. Also, the reference does not teach or suggest all of the claim limitations. For at least this reason, the rejection of claim 2 should be withdrawn.

Further, the proposed modification very likely results in the prior art reference being unsatisfactory for its intended purpose. This is improper. See, MPEP §2143.01. Accordingly, the rejection of claim 2 should be withdrawn.

Regarding claims 8 and 9 (which depends from claim 8), the rejection alleges that *Raynaud* discloses the claimed invention except for timing means for controlling the expansion of the bellows (claim 8) and means for timing the ignition of the gas-powered means. However, assuming, *arguendo*, that *Raynaud* does disclose the claimed invention except for the noted deficiencies, the disclosure in *Raynaud* still also does not disclose an “expandable bellows positioned between at least some of said spools for serially separating said spools.” Rather, the bellows disclosed by *Raynaud* is position between one armament or one group of armaments and a lightweight alloy structure, which is itself integral with the support pannier (col. 4, lines 25-26). Thus, the disclosed bellows in *Raynaud* is not “positioned between at least some of said spools for serially separating said spools” and there is not teaching or suggestion to modify this feature of *Raynaud*. From the above, it is respectfully asserted that an obviousness rejection is improper because the cited document and proposed modifications do not include all of the features of claims 8 and 9. See M.P.E.P. §§2143-2143.03. For at least this reason, the rejection of claims 8 and 9 should be withdrawn.

New claims 15-37 define further distinguishing features of exemplary embodiments of the presently claimed system for dispensing projectiles from a

munition and method of dispensing projectiles from a munition. Examination and consideration of these claims is respectfully requested.

**CONCLUSION**

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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